



**CITY OF SUNNYVALE
REPORT
Planning Commission**

June 26, 2006

SUBJECT: 2006-0496 – **Standard Pacific Homes** [Applicant] **Berg and Berg Developers** [Owner]: Application for related proposals on a 2.25-acre site located at **1170 Morse Avenue** in an M-S/ITR/R3/PD (Industrial and Service/Industrial to Residential/Medium-Density Residential/Planned Development) Zoning District.

Motion Special Development Permit to allow the construction of 48 housing units.

Motion Tentative Map to subdivide one lot for the purpose of creating condominium units.

REPORT IN BRIEF

Existing Site Conditions Two-story industrial buildings

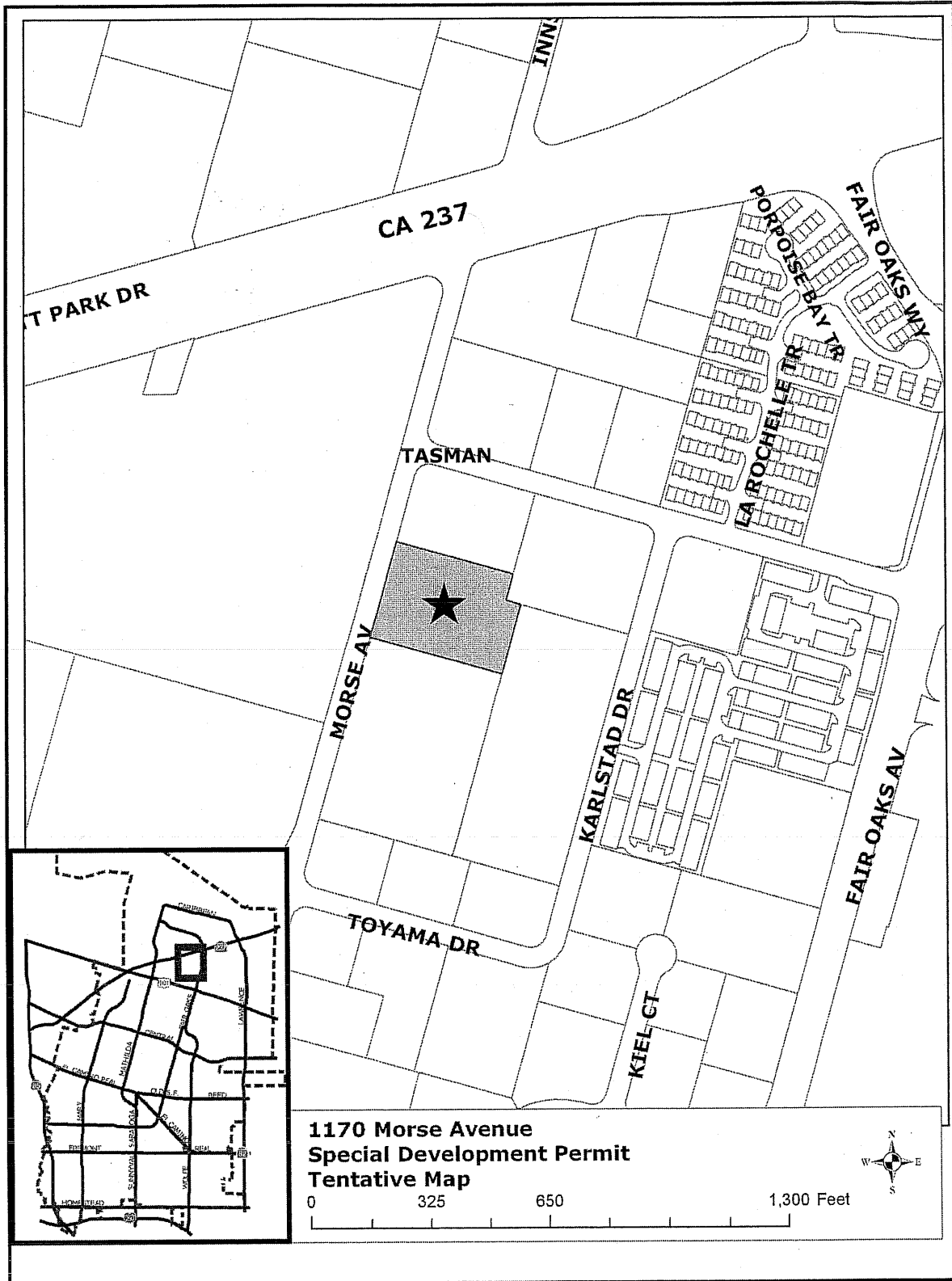
Surrounding Land Uses

North	Townhomes
South	Apartments
East	General Industrial, future apartments
West	Mobile Home Park

Issues Landscaping

Environmental Status Category 32 Exemption for infill development

Staff Recommendation Approve with Conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial to Residential Medium to High Density	Same	---
Zoning District	M-S/ITR/R3/PD	Same	---
Lot Size (s.f.)	98,010 (2.25 ac)	min. 5,158	8,000 min.
Gross Floor Area (s.f.)	40,000	90,144	No max.
Lot Coverage (%)	21%	37%	40 % max.
Floor Area Ratio (FAR)	40%	92%	No max.
No. of Units	0	48	54 max.
Density (units/acre)	n/a	21.3	24 max.
Meets 75% min?	n/a	89%	75 % min.
Unit Size: (s.f.)	n/a	<i>Flats 2-bed</i> Plan B: 1,166 Tandem Garage: 391 Plan H: 1,147 Tandem Garage: 418 <i>Townhome 3-bed</i> Plan G: 1,729 2-Car Garage: 441	---
No. of Buildings On-Site	1	8	---
Distance Between Buildings (ft.)	n/a	29	26' min. for three story
Building Height (ft.)	n/a	37' 9" Ridge 42' 5" Tower	30' max.
No. of Stories	1	3	2 max.
Setbacks (facing prop.)			
• Front	80'	15' min.; 17 avg.	15 min. Avg. 20
• Left Side	64'	14'	9' min. first/ 12' third story
• Right Side	64'	6'	6' min./15' third story
• Rear	50'	30'	20' min.

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
Landscaping (sq. ft.)			
• Total Landscaping	9,785	28,600	19,600 min.
• Total Usable Open Space	n/a	19,600	19,200 min.
• Landscaping / Unit	n/a	595	425 min.
• Usable Open Space/Unit	n/a	408	400 min.
• Parking Lot Shading	15%	25 %	50% within 15 years
• Frontage Width (ft.)	15	15	15 ft. min.
• Landscaper Buffer (ft.)	n/a	None	N/A
Parking			
• Total No. of Spaces	120	117	115 min.
• No. of Covered Spaces	n/a	64	64 min.
• No. of Standards	n/a	36	32 min.
• No. of Compacts / % of total unassigned	n/a	14 (26.4%)	35% unassigned max.
• No. of Accessible	n/a	3	3 min.
• Driveway Aisle Width (ft.)	26'	24'	24' min.
• Bicycle Parking	n/a	Storage within garage, additional racks in common area	3 Class II spaces (1/15 units)
• Lockable Storage	n/a	Garage qualifies	300 cubic feet

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

The applicant proposes to redevelop an existing two-story office-building site with 48 housing units. The development includes two main types of living units combined within one larger structure. The design includes 2 townhome units with 2-car garages and 4 "flats" with tandem garages per building. The resulting mix is 16 townhomes and 32 flats within the proposed development.

Background

Previous Actions on the Site: The subject site has had no previous residential planning actions for the site. However, the project site is within the boundaries of the Tasman Fair Oaks Area Pedestrian and Bicycle Circulation Plan that was adopted in 2004.

Environmental Review

The site was deemed categorical exempt from CEQA requirements due to its eligibility as a Class 32 exemption for urban infill site with development of less than 100 units. Although mitigated negative declarations have been processed for a number of the sites in this area primarily in regards to noise, the subject site was not within the roadway noise contours that affected the environment of other neighboring sites. There are no uncommon issues attributable to the site requiring specific CEQA review.

Special Development Permit**Detailed Description of Use:**

The proposed project is organized around eight main buildings that include six living units per building. The site is situated around a centrally located private street accessing the site. There are two general types of housing units configured in three floor plans. There are Plan B and Plan H for the 2-bedroom flats and Plan G for the 3-bedroom townhomes. The flats are situated at the ends of each building with the townhomes in the middle. The flats each have a tandem garage and the townhomes have a 2-car garage on the ground level of each unit. The project includes surface parking on the private street as well as a double loaded parking lot in the rear of the site. The design includes walkways, paseos, and a usable open space area in the rear of the site. The flats also include balcony areas for usable space for their occupants.

Site Layout:

The site is designed with a central private street accessing the site and driveways oriented perpendicular to the private street for garage access. The design is typical of layouts in ITR 7 with units facing the public street and then internally organized around paseos or landscape areas. The project layout also includes sidewalk connections to Morse Avenue along the private street and walkways to access the front doors of the individual units.

The abutting uses are the recently constructed Tamarind Square Apartments to the south, new townhomes that are under construction to the north, and an existing general industrial use that is entitled to redevelop as the second phase of the Tamarind apartments to the east. The townhomes to the north (Verona) are a mixture of side and fronts of units. The adjacent apartment site primarily has parking along the common boundary with only the front building along Morse interfacing its side with the subject site. The general industrial building has parking along the common property line, which is also the approved design for the future phase of apartments.

The proposed design orients the sides of the main buildings towards the north and south property lines. The side elevations include an entry for one of the flats providing a more active interface than typical side elevations provide. This orientation is beneficial primarily along the north property line with the Verona townhomes as it provides an active residential interface with the fronts of some of the Verona townhome units. The building-to-building separation of the Verona townhomes that front towards the subject site and the proposed project's side façade will be 20-30 feet. For comparison this is a common internal building-to-building separation along paseos for townhome developments. This separation provides an adequate distance of space for both privacy and a sense of openness.

The proposed design has a Morse Avenue front building line pattern that is also reflective of the two abutting developments. The Tamarind Apartments have a basically uniform 15-foot setback from Morse Avenue and the Verona Townhomes have a 10-foot setback to the raised patio and vacillating building setback of 15 to 20 feet from Morse Avenue. The proposed project has a building setback of 15-20 feet for an average setback of 17 feet.

Due to the infill nature of the site, the project has not been able to incorporate shared vehicular or pedestrian access with the abutting sites. As mentioned above, architecturally the design is supportive of the building orientation and character despite the inability to provide physical connections.

Stormwater Management: This project is required to implement a post construction stormwater management plan. The applicant uses a mixture of mechanical devices, pervious landscape areas, and a drainage swale along the north property line.

The following Guidelines were considered in analysis of the project site design.

Design Policy or Guideline (Site Layout)	Comments
<u>Citywide Design Guidelines</u> <i>Site Design B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i>	The applicant has dispersed guest parking throughout the development. The trash enclosures are also located in two central locations. The project includes a primary pedestrian access sidewalk along the private street.
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>BD2 Try to maintain a well-defined street edge. BD 4 Provide direct entrances to street-level residential units to support an intimate streetscape.</i>	Walk up entries are provided along Morse Avenue.
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>SL 1 Private streets and driveways within development shall be designed for pedestrian use with sidewalks on a least one side.</i>	The project includes a primary pedestrian access sidewalk along the private street.

Architecture:

The applicant has proposed a distinct building form that utilizes an architectural tower element at one front corner of each building. Although the eight buildings are uniform in their internal floor plan layout, two different architectural treatments are proposed by the applicant. The first is a Spanish/colonial approach and the second is a Mediterranean/Italian design. Although they are similar European styles, they are complementary to each other on this site and include subtle but distinct variations of detailing.

The design includes having four front doors along the primary façade with one entrance on the side of each unit. This design reinforces the pedestrian nature of the design by providing not only front doors along the public street and paseos, but also along the internal private street contributing to a more intimate and residential streetscape within the project itself. The massing of the buildings is broken down through the use of articulated covered ground level entries, upper level balconies, hipped and gabled popouts (depending on building style), and varying corner roof lines accented by the tower element.

The proposed project's overall height is approximately 37 feet to the main ridge line and 42.5 feet to the top of the architectural tower. The Verona townhomes are as tall as 44 feet and Tamarind Square is approximately 38 feet in height along Morse Avenue. Neither of these projects include a projecting architectural element such as the proposed towers. The design includes one color pattern per building type focusing on off-white for the Spanish and a

beige and golden tan color for the Italian style unit. Accent colors are dark brown for the Italian and muted light colored green and tan for the Spanish. Other decorative features include metal potshelves and railings, shutters, and decorative tile work. In response to study session comments on similarity between the two building types, the applicant has provided an alternative design with cladding of the covered entries of the townhomes in the Italian style with a stone veneer.

Conditions of approval require final review and approval of materials and colors by the Director of Community Development to ensure the appropriate colors, textures, and materials complement the exterior building materials and finishes. In addition, "spray-on-foam" architectural treatments are restricted by a condition of approval due to the foam's limited durability and lack of design character. The applicant has noted they intend to use pre-formed accent components and trim that mimic the texture of wood and other materials' finishes to address the concern about generic foam appearance and durability.

The following Guidelines were considered in the analysis of the project architecture.

"Name of Guidelines"	Comments
Citywide Design Guidelines <i>Bldg. Design B1. Break up large buildings into groups of smaller segments whenever possible to appear smaller in mass and bulk.</i>	The design includes use of roof changes at the corners and at the middle 2-story entry to divide the building into segments.
<i>Bldg. Design C1.2.2 Encourage development of diversified building forms and intensities.</i>	The design provides a different architectural style for the area but is complementary in mass, height, and features to surrounding development. The variety of unit types also provides diversity for the neighborhood.
<i>Bldg. Design C3. Develop a comprehensive architectural theme for multi-building complexes. Unify various site components through use of similar design, material and color.</i>	The architectural style for each building is complementary. Each multi-unit building utilizes compatible materials and finishes with an emphasis on similar roof styles to unify the design.
<i>Materials and Colors F4. Choose high quality materials and paint to prevent degradation and for ease of maintenance.</i>	The project includes a number of accent features including, tile work, metal potshelves and railings, stone veneer, window trim, and shutters. High quality materials for tile roofs are proposed along with preformed durable accent features rather than foam pieces.
<i>Materials and Colors F5. Use wrought iron, cast iron, or high quality wood for decorative features and trims.</i>	

Landscaping:

Tree Preservation: The site landscaping currently has trees along the perimeter of the site and near the existing building in the center of the site. The site has a total of 13 trees meeting protected tree status. Protected trees are those that measure 38 inches or greater in circumference when measured at four feet from the ground. However, due to site requirements of building the site up out of the flood plain, none of the trees on the site are proposed to be retained. This includes removal of the existing street trees as well to provide the new sidewalk. The City Arborist concurs with the applicant's arborist evaluation and agrees with the tree removal proposal and replacement mitigation of 36-inch box trees.

Open Space: The plan accommodates usable open space through both provision of landscaped areas and balconies. The surface areas are primarily the paseos in the middle of the project and a 5,000 square foot area at the rear of the site. Additionally, the flats units have balcony areas that qualify as usable open space. The balconies range in size from 220-270 square feet each. The landscape design features passive-use open space. The open area in the rear includes a picnic/gathering area allowing for the remainder of the area to be open grass area. Staff has included a condition to maximize the open space area configuration by moving the gathering area to the perimeter of the space. The applicant may wish to consider creating small individual patios at the front entries to the units within the paseo areas.

The dimensions of the open space may be able to be slightly enlarged by reducing the driveway widths between buildings. The current design has between 29 and 32 feet between buildings with a 24-foot wide drive aisle. This wider design has allowed the applicant to provide decorative landscaping along both sides of the driveway. However, four feet of spacing from each driveway could be adjusted to other areas of the design and still permit landscaping on one side of the driveway. Staff has included a condition to review final landscape area dimensions with staff with the intent of enlarging the open area in the rear by a minimum of six feet. The south half of the project could be modified to increase the paseo area or landscape strips along the parking lot for improved tree vitality.

Parking Lot Landscaping: The project is deficient in parking lot shading as currently proposed. Staff does not support this proposed deviation. The applicant has two primary methods to address the deviation. The parking lot in the rear can be reduced by two whole stalls to add landscape fingers for increased coverage and along the north side of the private street, opposite the parking, the applicant can replace the walkway with trees to line the street. The outcome of these changes reduces the total parking to the minimum required and eliminates the secondary walkway connection to Morse Avenue. Staff recommends implementation of these strategies to address tree shading deficiencies and minimize or potentially eliminate the current deviation. Staff would support a minor deviation to the shading after reconciliation is attempted due to the difficult nature of shading a single loaded aisle of parking

along the private street. To ensure complete achievement of the shading standard a one to two parking space deviation may be required for the rear parking lot to increase shade coverage, which staff does not support.

The following Guidelines were considered in analysis of the project landscaping.

"Name of Guidelines"	Comments
<u>Citywide Design Guidelines</u> <i>Landscaping A4 Properly landscape all areas not covered by structures, driveways and parking.</i>	The site significantly exceeds minimum landscape area standards. Modifications are required to meet tree shading standards for the parking lot area; however, the private street design may prohibit complete compliance.
<i>A2 Preserve and incorporate existing natural features, particularly trees, on a site into the landscape design of projects.</i>	Due to site conditions and building code requirements to raise the site out of a flood zone, all trees are to be removed.
<i>Site Design B1. Locate site components such as structures, parking, driveways, walkways, landscaping and open spaces to maximize visual appeal and functional efficiency.</i>	The project includes new street trees and landscaped areas along the perimeter of the site. The internal landscape area is not situated as a focal feature and provides internal private amenity space. The visual appeal for the project is focused on streetscape improvements.

Parking/Circulation: The project meets all applicable parking standards in total count and type of spaces. The project includes tandem garages in the building design; however, those same tandem garages are only counted as a single parking space and not as two spaces. The tandem configuration is appropriately accounted for as one-car garages in the calculation of required parking. Staff believes the overall the site is very accessible and functional for parking. One minor staff recommendation would be to create a small 2-foot notch at the south end of the parking lot to allow easier maneuvering of cars backing out of the end spaces if it does not displace a shade tree.

The following Guidelines were considered in analysis of the project parking and circulation.

"Name of Guidelines"	Comments
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>SL 3 Discourage the creation of isolated/walled complexes</i>	The design provides central connectivity to the street. As an infill project there is no physical connections to abutting developments. The building layout and architecture does enhance the character of the perimeter despite the existing separation walls.

"Name of Guidelines"	Comments
<u>Fair Oaks/Tasman Plan Guidelines</u> <i>BD2 Try to maintain a well-defined street edge.</i>	The project complies with this guideline with the exception of the parking spaces at the entrance to the site. Staff recommends locating a decorative project identification sign to screen this view.

Compliance with Development Standards/Guidelines: The proposed development does not meet the new zoning code definition of "townhome" and therefore is not eligible for the new zoning standards relating to lot size and height. The project includes number deviations that are typical of multifamily condominium ownership development in the ITR 7 area. They include minimum lot size, building height and stories, front yard setback, and a third-story side yard setback. Currently a deviation to tree shading is proposed that staff does not support as discussed above. The applicant has some options to address this issue which will minimize the deviation, but not necessarily completely eliminate it. With improved compliance staff would support a slight deviation to shading. The overall justifications for the deviations to site development standards include provision of ownership housing and compliance with pedestrian guidelines for pedestrian friendly design and street character.

Fair Oaks Tasman Area Pedestrian and Bicycle Circulation Plan: The applicant is in compliance with the Tasman Fair Oaks Pedestrian and Bicycle Guidelines for development pattern and improvements. The site's frontage is also identified as a location for a "sense of place" improvement. At this time the final design and cost estimates for implementation are moving through the design phase and have not been officially approved at this time. The final design and construction cost estimates are scheduled for review by the City Council on July 18, 2006. As per past practice and within reasonable cost estimates for all types of neighborhood enhancement for the area, staff has included a condition to provide a cash contribution at the rate established by the pending design work not to exceed \$1,000 per unit.

TDM for Residential Development: The applicant is also required to provide transit information kiosks on the site due to their proximity to the light rail station. Staff is recommending a placement of one kiosk at a high activity point in the common area.

Expected Impact on the Surroundings: The area surrounding this site is designated as ITR (Industrial to Residential) and has entitlement to redevelop to residential uses. The neighborhood overall is in the process of transitioning to residential. The current interim development pattern is disjointed throughout the area due to parcelization and individual property owner's discretion on pursuing residential development or maintaining an industrial use. This pattern creates potential conflicts for ongoing industrial uses with new residents. In this case there is an existing industrial building on the east boundary that is expected to continue to operate despite entitlement to convert

to a residential use in the future. As standard practice, a deed declaration within the CC&R disclosing abutting industrial uses is included as a condition of approval.

The potential impacts to the project residents are for more vehicle traffic or truck traffic, potential noise, and other impacts from ongoing business operations as compared to a homogenous residential neighborhood. Through the Initial Study for CEQA review of this project and the Futures EIR of the early 1990s, no hazardous material problems were identified on the subject site or in relation to the adjacent industrial operations. The proposed transition is consistent with the intent of the Futures study and specifically the existing ITR zoning.

An additional impact on the surrounding neighborhood relates to availability of recreational facilities. A site 1/4 mile to the south of the subject sites is owned by the City and planned to be a future 5-acre park. However, the park is currently listed as an unfunded capital project and does not have a targeted improvement date. Including the proposed project, existing residents, and projects under construction in the area, the need for the park is increasing and City shall monitor the situation for appropriate action in the future to provide needed park services for the neighborhood planning area. At this time the neighborhood residents have access to the John W. Christian Greenway and Orchard Gardens Park, with connecting access to Lakewood Park to the east of the area. The proposed project is subject to park in-lieu fees to support the development or acquisition of additional park facilities.

Tentative Map

Description of Tentative Map: The applicant's lotting pattern consists of larger lots for the eight main buildings for the purpose of creating condominium ownership of the townhomes. The project is required to provide street frontage improvements, including sidewalks, luminaries and street trees in conformance with the Tasman and Fair Oaks Pedestrian and Bicycle Plan.

Fiscal Impact

The project will contribute park in-lieu fees to the City in the amount of \$7,350.75 per unit for a total of \$352,836. This fee will be collected prior to the time of final map approval. The project will have no net increase in traffic per the Transportation Strategic Program standards and is not required to pay an impact fee. No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Planning Commission Study Session: A study session was held on June 12, 2006 to become acquainted with the application. Issues of concern brought up by the Commission related primarily to overall height and the relationship to

projects abutting the subject site. This information has been provided in the discussion of the architecture and site layout. The applicant has prepared an exhibit included in Attachment C showing the streetscape comparison. Architecturally the applicant has modified the Italian style building to include a stone veneer as further differentiation of the building type.

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 660 notices mailed to the property owners and residents within 300 ft. of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Permit . Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the Special Development Permit and Tentative Map with attached conditions.
2. Approve the Special Development Permit and Tentative Map with modified conditions.
3. Deny the Special Development Permit and Tentative Map.
4. Direct staff as to where additional environmental analysis is required in lieu of the categorical exemption.

Recommendation

Recommend Alternative 1

Prepared by:



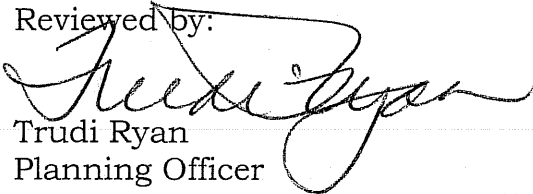
Kelly Diekmann
Project Planner

Reviewed by:



Gerri Caruso
Principal Planner

Reviewed by:



Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans

Recommended Findings - Special Development Permit*Land Use and Transportation Element*

Action Statement N1.4.2 Site higher density residential development in areas to provide transitions between dissimilar neighborhoods and where impacts on adjacent land uses and transportation system are minimal.

Action Statement R.1.7.2 Support regional efforts which promote higher densities near major transit and travel facilities, without increasing the overall density of land usage.

Policy C2.2 Encourage the development of ownership housing to maintain a majority of housing in the City for ownership choice.

Housing and Community Revitalization Sub-Element

Policy C.1 Continue efforts to balance the need for additional housing with other community values, such as preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.

Goal D Maintain diversity in tenure, type, size and location of housing to permit a range of individual choices for all current residents and those expected to become city residents.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project

Finding Met. The project site is part of the Futures 7 Industrial to Residential conversion area is intended for the proposed type of residential use. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the proposed project provides 48 additional housing units including 6 BMR units and eases the City's jobs/housing imbalance with the additional housing and replacement of employment producing land uses as intended by the ITR designation. The design is appropriate in its design as a complimentary infill project with a high quality living environment for its future residents.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as.

Finding Met. The proposed project is an infill project surrounded by approved development. The design compliments the approved development both architecturally and by the site orientation. A condition of approval requires a deed declaration to provide awareness of the area's transition from industrial to residential and the operation of an industrial use to the east.

Recommended Findings - Tentative Map

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. Staff finds that the Tentative Map is in conformance with the General Plan. However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Recommended Conditions of Approval - Special Development Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Execute a Special Development Permit document prior to issuance of the building permit.
- B. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is approved prior to the expiration date.
- C. The Conditions of Approval shall be reproduced on the cover page of the plans submitted for a Building permit for this project and include annotated responses with the first building permit submittal on where each condition has been addressed.
- D. This Special Development Permit is valid only in accordance with the approved plans. Any major use, site or architectural modifications shall be treated as an amendment to the original approval, and shall be subject to approval at a public hearing before the Planning Commission. Minor modifications may be approved by the Director of Community Development.
- E. Specific deviations allowed with this Special Development Permit are as follows:
 - a. Lot size less than 8,000 sq. ft. for condominium purposes.
 - b. Maximum height of 3 stories and 42.5 feet as measured from top of curb.
 - c. Sideyard setback of 6 feet.
 - d. Front yard setback average of 17 feet.
 - e. Potential parking lot shading deviation of 45% shading where 50% is required.
- F. Prior to issuance of a building permit, provide a cash contribution towards sense of place improvements at the dollar amount established by the Transportation Division at a rate not to exceed \$1,000 per unit. If the design costs have not been established prior to the request for issuance of the building permit a fee of \$1,000 per unit shall be provided.

- G. An Impervious Surface Calculation worksheet is required to be completed and submitted for the California Regional Water Quality Control Board prior to issuance of a Building Permit.
- H. A third party certified stormwater plan shall be submitted at the time of submittal for building permits. The plan is subject to approval by the Director of Community Development. The building permit improvement, landscape, and grading plans shall include a statement of no conflict from the certified stormwater engineer in accordance with an approved stormwater management plan.

2. ENVIRONMENTAL MITIGATION MEASURES

- A. At the time of building permit submittal, provide verification of construction type techniques for opening's compliance with Title 24 noise standards.

3. BMR (BELOW MARKET RATE UNITS)

- A. Comply with Below Market Rate Housing (BMR) requirements as noted in SMC 19.66.
- B. The project will provide 12.5% (6 units) Below Market Rate ownership dwelling units in compliance with SMC 19.66.
- C. The developer shall submit a site plan to the Housing Officer for review. The plan will include a description of the number, type, size and location of each unit on the site. The Housing Officer will then determine the specific units to be obligated as Below Market Rate (BMR) unit(s). (BMR Administrative Guidelines)
- D. Prior to issuance of a building permit, the developer shall execute a Development Agreement with the City to establish the units. The sale price of the BMR units is established at the time of the execution of the Development Agreement. (BMR Administrative Guidelines)
- E. All BMR dwelling units shall be constructed concurrently with non-BMR units, and shall be dispersed throughout the property and shall reflect the range in numbers of bedrooms provided in the total project and shall not be distinguished by exterior design, construction or materials. (SMC 19.66.020(c))
- F. Sixty days (60) days prior to the estimated occupancy date, the developer shall notify the Housing Division of the BMR units to be available. (BMR Administrative Guidelines)
- G. BMR Ownership Program - Developer and Buyer to execute "Addendum to Purchase Offer" prior to Occupancy Permit and provide copy to City. (BMR Administrative Guidelines)

- H. Ownership Units - Prior to Close of Escrow, a Deed of Trust between the City and the Buyer of the BMR unit shall be recorded to establish resale and occupancy restrictions for a 30-year period.
- I. The original sale price of BMR dwelling units shall comply with sales prices established by the City, which is revised annually. (SMC 19.66.040 (c))
- J. Below Market Rate dwelling units shall be offered for sale only to persons qualified under the terms described in SMC 19.66.040 and 19.66.050 and described more fully in the Administrative Guidelines. (BMR Rental Units / BMR Ownership Program)
- K. Resale of BMR dwelling units shall comply with procedures set forth in SMC 19.66.060.
- L. In the event of any material breach of the Below Market Rate Program requirements and conditions, the City may institute appropriate legal actions or proceedings necessary to ensure compliance. (SMC 19.66.140)
- M. In the event that any of the Below Market Rate dwelling units or a portion thereof is destroyed by fire or other cause, all insurance proceeds therefrom shall be used to rebuild such units. Grantee hereby covenants to cause the City of Sunnyvale to be named additional insured party to all fire and casualty insurance policies pertaining to said assisted units. (BMR Administrative Guidelines)

4. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney. Provide three copies of the draft CCR for review with the building permit submittal.
- B. Prior to approval of the final map the applicant shall prepare a deed declaration disclosing potential impacts from the adjoining industrial uses. The statement shall identify the uses are permitted to operate in perpetuity and associated impacts may include noise, truck traffic, night lighting, etc. The deed restriction language shall be submitted to the Director of Community Development and City Attorney for review and approval at the time of building permit submittal.
- C. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:

- D. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- E. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- F. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners association, following sale of at least 75% of the units in each individual phase, whichever comes first.
- G. Reference and authority of the Conditions of Approval of this permit shall be included in the CC&Rs.
- H. The CC&Rs shall contain the following language:
 - 1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
 - 2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
 - 3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.
5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.
7. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."
8. Homeowners are prohibited from modifying drainage facilities and/or flow patterns without first obtaining permission from the City.
9. Homeowners are prohibited from installing window based air conditioning systems that protrude beyond the building wall plane.
- I. There shall be provisions for post construction Best Management Practices in the CC&R's in regards to the final stormwater management plan and ongoing maintenance and reporting requirements.
- J. Prior to approval of the final map the applicant shall prepare a deed declaration disclosing potential impacts from the adjoining industrial uses. The statement shall identify the uses are permitted to operate in perpetuity and associated impacts may include noise, truck traffic, night lighting, etc. The deed restriction language shall be submitted to the Director of Community Development and City Attorney for review and approval.
- K. The Homeowners Association shall be required to maintain and keep up to date transit information and rideshare information for display in an on site kiosk. The display shall include current VTA transit map, Caltrain station map, contact info websites and phone # for Caltrain, VTA, www.511.org, etc.

5. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. The plans shall be revised to be consistent with the Design Guidelines and development standards by providing the following:
 - 1. The site plan shall indicate the location of mailboxes and transportation information display/kiosk. Kiosk display are to be included at high level of activity area. Provide detail on display design and shall include a minimum of a 36 x 42 inch display area.
 - 2. Final plans shall include the grid pattern of windows as shown on the elevations.
 - 3. The building bases and stucco accent treatments shall be differentiated from the finish of the main facade. Foam trim shall be restricted in use to accent elements not traditionally used as wood or other finishes. Any foam base approved for use shall be of high density for durability. The final finish of any approved foam-based elements shall provide for a high level of craftsmanship in edging and detailing along with contrasting texture to identify a change of materials from the stucco wall finish.
 - 4. The stone veneer treatment shall be expanded to other areas of the front and side façades to tie in the center entry building elements.
- B. Roof material shall be 50-year warranty architecturally compatible tile roof.
- C. Prior to the submittal for building permits, submit a revised site layout and landscape plan that reduces the distance between buildings and driveways to allow for greater spacing of open space. The design shall allow for landscaping along one side of the 24-foot driveway and allow for the increase of the rear open space area on the north side and for potential increase of the parking lot landscape strips, paseo, or increased front setback for the south side. The modified design is subject to the review and approval of the Director of Community Development.

6. EXTERIOR EQUIPMENT

- A. Individual air conditioning units shall be screened with architectural or landscaping features.
- B. Window air conditioning units shall not be permitted (See COA H9 CCR conditions).

7. FENCES

- A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development.
- B. Any proposed front yard fencing along the public right-of-ways shall have an open design and not to exceed three feet in height.

- C. A decorative low wall with a project name is encourage as screening element to the front parking spaces.
- D. Wherever there is a grade differential greater than 12 inches, a concrete or masonry retaining wall shall be installed. Such a wall shall not be designed to infringe on the root system of protected trees on adjoining properties. Post and pier perimeter boundary walls may be required to ensure the protection of existing trees on adjacent sites.

8. LANDSCAPING

- A. Landscape and irrigation plans shall be submitted at the time of building permit submittal for review and approval by the Director of Community Development prior to issuance of a Building Permit.
- B. Provide a tree shading plan demonstrating compliance with parking lot shading requirements of 50% shading. The Director of Community Development at his sole discretion may grant a deviation of 5%.
- C. The rear open space area shall be designed to emphasize open activity area without obstruction and shall have gathering and picnic areas moved to the periphery and nearer the building with appropriate separation.
- D. Consider creation of small individual patio areas for the paseo units considering impacts to the openness and privacy of adjacent units.
- E. Provide a planting schedule for all landscaping indicating species, type, size, and count.
- F. Provide dollar valuation of trees in the landscape plan to ensure the equal or exceed replacement costs for the removal of protected trees.
- G. Landscaping and irrigation shall be installed prior to occupancy.
- H. Include decorative paving differentiation by color and texture at driveway entries up to the first parking stall.
- I. Provide separate meter for domestic and irrigation water systems.
- J. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- K. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.
- L. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size. This requirement is in addition to tree planting requirements for the removal of protected trees described below.

- M. Any "protected trees", (as defined in SMC 19.94) approved for removal, shall be replaced with a specimen tree of at least 36-inch box size. The specimen trees are to be of a large species and noted as such on planting schedule.
- N. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
- O. Landscaping shall be included around parking areas in an attempt to obscure their appearance from public streets.
- P. All areas not required for parking, driveways or structures shall be landscaped.
- Q. Backflow devices are to be located out of direct view from the public street and not within driveway visions triangles. Metal black cages are required as screening for all size of devices if viewable from the public street.

9. TREE PRESERVATION

- A. Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, include the approved tree protection plan in the plan set.
- B. Trees on adjacent property that extend over the property line are to be included on the tree protection plan. Perimeter wall construction shall take protection of off-site tree roots into design consideration.
- C. The tree protection plan shall be installed prior to issuance of any Building Permits, subject to the on-site inspection and approval by the City Arborist.
- D. The tree protection plan shall remain in place for the duration of construction.
- E. Overlay Civil plans including utility lines to ensure that the tree root system is not damaged.

10. LIGHTING

- A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:
 - 1. High pressure Sodium vapor or other illumination with an equivalent energy efficiency shall be included in the common areas.
 - 2. Light standards shall be of a pedestrian scale and bollards may be and are encouraged to be utilized throughout the site for lighting.
 - 3. Provide photocells for on/off control of all security and area lights.

4. All exterior security lights shall be equipped with vandal resistant covers.
 5. Lights shall have shields to prevent glare onto adjacent residential properties and to the internal townhomes.
- B. Prior to issuance of a Building Permit submit a contour photometric plan for approval by the Director of Community Development.

11. PARKING

- A. Thirty percent of uncovered spaces shall be reserved as guest parking spaces and shall be so designated prior to occupancy.
- B. No uncovered parking space are to be assigned to a unit or offered for rent by the property owners or homeowners association.
- C. Two-car garage spaces shall be maintained at all times so as to allow parking of two automobiles and tandem garages are required to be maintained at all times to allow for parking of a minimum of one vehicle.
- D. Specify compact parking spaces on the Building Permit plans. All such areas shall be clearly marked prior to occupancy, as approved by the Director of Community Development.
- E. Unenclosed storage of any vehicle intended for recreation purposes, but excluding attached camper bodies and motor homes not exceeding 18 feet in length, shall be prohibited on the premises.

12. BICYCLE PARKING

- A. Provide a minimum of 3 Class II guest parking spaces per VTA Bicycle Technical Guidelines as approved by the Director of Community Development.

13. RECYCLING AND SOLID WASTE

- A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for approval.
- B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- C. The required solid waste and recycling enclosure shall match the design, materials and color of the main building and is subject to review and approval by the Director of Community Development.
- D. The enclosure shall be of masonry construction complimentary to the main building architecture. The design shall include decorative tops to shield view from upper floors of nearby housing units.

14. UNDERGROUND UTILITIES

- A. All existing and proposed utilities shall be undergrounded.

15. TENTATIVE MAP CONDITIONS

- A. Full development fees shall be paid for each project parcel or lot shown on Final Tract Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- B. Comply with all applicable code requirements as noted in the Standard Development Requirements.
- C. All existing utility lines and /or their appurtenances not serving the project and/or have conflicts with the project, shall be capped, abandoned, removed, relocated and/or disposed to the satisfaction of the City.
- D. Individual utility service metering shall be provided to each unit.
- E. Obtain necessary permits from the Department of Public Works for all off-site improvements including utility line extensions, utility connections, meter locations, driveways, sidewalks, etc.
- F. Pay Park In-lieu fees of \$352,836 (\$7,350.75/unit) for 48 units, prior to approval of the Final Map. SMC 18.10)
- G. Dedicate private streets as emergency vehicle ingress-egress easements.
- H. At the expense of the subdivider, City staff shall install required street trees (Yarwood) as determined by the Public Works Department. Street trees standard specifications include structural soil design. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.38.070) prior to issuance of a Building Permit for street trees.
- I. Construct new sidewalk, curb, and gutter along with the enhancement in accordance with requirements of the Transportation and Traffic Division.
 - a. Street frontage improvement require a 10-foot sidewalk along Morse Avenue.
 - b. Luminaries are to be installed per design standards of the Fair Oaks and Tasman Pedestrian and Bicycle Circulation Plan.
 - c. Luminaries shall include an internal louver around the bulb or equivalent feature to direct lighting downwards. This detail shall be indicated on improvement plans.